

Parental Consent for Initial Evaluation

Universal Academy open-enrollment charter school cannot conduct an initial evaluation of the student to determine whether the student is eligible under Part B of IDEA to receive special education and related services without first providing the parent with prior written notice of the proposed action and obtaining parental consent.

Universal Academy must make reasonable efforts to obtain the parent's informed consent for an initial evaluation to decide whether the student is a student with a disability.

If the parent requests, prior to signing consent for a psychological evaluation, Universal Academy must provide the parent with the name and type of examination, and how the examination will be used to develop the individual education program (IEP). (TEC §29.0041)

After providing consent, if Universal Academy determines another evaluation is necessary, the parent must provide consent prior to Universal Academy beginning the additional evaluations.

The parent's consent for initial evaluation does not mean that the parent has also given consent for the open-enrollment charter school to start providing special education and related services to the student.

Universal Academy may not use the parent's refusal to consent to one service or activity related to the initial evaluation as a basis for denying the parent or the student any other service, benefit, or activity, unless another Part B requirement requires the open-enrollment charter school to do so.

If the student is enrolled in or the parent is seeking to enroll the student in Universal Academy and the parent has refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, the

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open-enrollment charter school may, but is not required to, seek to conduct an initial evaluation of the student by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. The open-enrollment charter school will not violate its obligations to locate, identify and evaluate the student if it does not pursue an evaluation of the student in these circumstances.

(34 CFR §§300.9; 300.300(a)(3)(i))

Special Rules for Initial Evaluation of Wards of the State

If a student is a ward of the State and is not living with his or her parent, the open-enrollment charter school does not need consent from the parent for an initial evaluation to determine if the student is a student with a disability if:

- 1) despite reasonable efforts to do so, the open-enrollment charter school cannot find the student's parent;
- 2) the rights of the parents have been terminated in accordance with State law; or
- 3) a judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.

Ward of the State, as used in IDEA, means a child who, as determined by the State where the child lives, is:

- 1) a foster child;
- 2) considered a ward of the State under State law; or
- 3) in the custody of a public child welfare agency.

Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent as used in IDEA.

(34 CFR §§300.9; 300.300)

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Parental Consent for Services

Universal Academy must make reasonable efforts to obtain informed consent from the parent before providing special education and related services to the student for the first time.

If the parent does not respond to a request to provide parental consent to receive special education and related services for the first time, or if the parent refuses to give such consent or later revokes (cancels) consent in writing, Universal Academy may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by the ARD committee) may be provided to the student without the parent's consent.

If the parent refuses to give parental consent for the child to receive special education and related services for the first time, or if the parent does not respond to a request to provide such consent or later revokes (cancels) consent in writing and the open-enrollment charter school does not provide the student with the special education and related services for which it sought the parent's consent, the open-enrollment charter school:

- 1) is not in violation of the requirement to make a free appropriate public education (FAPE) available to the student for its failure to provide those services to the student; and
- 2) is not required to have an ARD meeting or develop an IEP for the student for the special education and related services for which the parent's consent was requested.

If the parent revokes (cancels) the parent's consent in writing at any point after the student is first provided special education and related services, then the open-enrollment charter school may not continue to provide such services, but must provide the parent with prior written notice before discontinuing those services.

(34 CFR §300.300)

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Parental Consent for Reevaluations

It is the policy of Universal Academy open-enrollment charter school to obtain the parent's informed consent before it reevaluates the student, unless the open-enrollment charter school can demonstrate that:

- 1) it took reasonable steps to obtain the parent's consent for the student's reevaluation; and
- 2) the parent did not respond.

If the parent refuses to consent to the student's reevaluation, the open-enrollment charter school may, but is not required to, pursue the student's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override the parent's refusal to consent to the student's reevaluation. As with initial evaluations, the open-enrollment charter school does not violate its obligations under the IDEA if it declines to pursue the reevaluation in this manner.

(34 CFR §300.300)

Documentation of Reasonable Efforts to Obtain Parental Consent

It is the policy of Universal Academy to maintain documentation of reasonable efforts to obtain the parent's consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the open-enrollment charter school's attempts in these areas, such as:

- 1) detailed records of telephone calls made or attempted and the results of those calls;
- 2) copies of correspondence sent to the parent and any responses received; and
- 3) detailed records of visits made to the parent's home or place of employment and the results of those visits. (34 CFR §300.300)

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Parental Consent to Access Public Benefits

It is the policy of the Universal Academy open-enrollment charter school to obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought.

(34 CFR §300.154(d)(2)(iv)(A))

Parental Consent for Transfer of Assistive Technology Devices

It is the policy of the Universal Academy open-enrollment charter school to obtain informed consent from the parent or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state.

Other Consent Requirements

Parental consent is not required before the open-enrollment charter school may:

- 1) review existing data as part of the student's evaluation or a reevaluation; or
- 2) give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students. 34 CFR 300.300(d)